

Federal Maritime Commission

§ 520.1

freight forwarder or limit that compensation, as provided for by section 19(e)(4) of the Act and 46 CFR part 535.

(e) *Electronic data interchange.* A licensed freight forwarder may own, operate, or otherwise maintain or supervise an electronic data interchange-based computer system in its forwarding business; however, the forwarder must directly perform value-added services as described in paragraph (c) of this section in order to be entitled to carrier compensation.

(f) *Compensation; services performed by underlying carrier; exemptions.* No licensed freight forwarder shall charge or collect compensation in the event the underlying common carrier, or its agent, has, at the request of such forwarder, performed any of the forwarding services set forth in §515.2(i), unless such carrier or agent is also a licensed freight forwarder, or unless no other licensed freight forwarder is willing and able to perform such services.

(g) *Duplicative compensation.* A common carrier shall not pay compensation for the services described in paragraph (c) of this section more than once on the same shipment.

(h) *Non-vessel-operating common carriers; compensation.* (1) A licensee operating as an NVOCC and a freight forwarder, or a person related thereto, may collect compensation when, and only when, the following certification is made together with the certification required under paragraph (c) of this section:

The undersigned certifies that neither it nor any related person has issued a bill of lading or otherwise undertaken common carrier responsibility as a non-vessel-operating common carrier for the ocean transportation of the shipment covered by this bill of lading.

(2) Whenever a person acts in the capacity of an NVOCC as to any shipment, such person shall not collect compensation, nor shall any underlying ocean common carrier pay compensation to such person, for such shipment.

(i) *Compensation; beneficial interest.* A licensed freight forwarder may not receive compensation from a common carrier with respect to any shipment in which the forwarder has a beneficial interest or with respect to any shipment

in which any holding company, subsidiary, affiliate, officer, director, agent, or executive of such forwarder has a beneficial interest.

§515.91 OMB control number assigned pursuant to the Paperwork Reduction Act.

The Commission has received OMB approval for this collection of information pursuant to the Paperwork Reduction Act of 1995, as amended. In accordance with that Act, agencies are required to display a currently valid control number. The valid control number for this collection of information is 3072-0012.

PART 520—CARRIER AUTOMATED TARIFFS

Sec.

520.1 Scope and purpose.

520.2 Definitions.

520.3 Publication responsibilities.

520.4 Tariff contents.

520.5 Standard tariff terminology.

520.6 Retrieval of information.

520.7 Tariff limitations.

520.8 Effective dates.

520.9 Access to tariffs.

520.10 Integrity of tariffs.

520.11 Non-vessel-operating common carriers.

520.12 Time/Volume rates.

520.13 Exemptions and exceptions.

520.14 Special permission.

520.91 OMB control number assigned pursuant to the Paperwork Reduction Act.

APPENDIX A TO PART 520—STANDARD TERMINOLOGY AND CODES

AUTHORITY: 5 U.S.C. 553; 46 U.S.C. app. 1701-1702, 1707-1709, 1712, 1716; and sec. 424 of Pub. L. 105-383, 112 Stat. 3411.

SOURCE: 64 FR 11225, Mar. 8, 1999, unless otherwise noted.

§ 520.1 Scope and purpose.

(a) *Scope.* The regulations of this part govern the publication of tariffs in automated systems by common carriers and conferences in the waterborne foreign commerce of the United States. They cover the transportation of property by such carriers, including through transportation with inland carriers. They implement the tariff publication requirements of section 8 of the Shipping Act of 1984 ("Act"), as

§ 520.2

46 CFR Ch. IV (10–1–07 Edition)

modified by the Ocean Shipping Reform Act of 1998 and section 424 of Public Law 105–258.

(b) *Purpose.* The requirements of this part are intended to permit:

(1) Shippers and other members of the public to obtain reliable and useful information concerning the rates and charges that will be assessed by common carriers and conferences for their transportation services;

(2) Carriers and conferences to meet their publication requirements pursuant to section 8 of the Act;

(3) The Commission to ensure that carrier tariff publications are accurate and accessible and to protect the public from violations by carriers of section 10 of the Act; and

(4) The Commission to review and monitor the activities of controlled carriers pursuant to section 9 of the Act.

§ 520.2 Definitions.

The following definitions shall apply to this part:

Act means the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998.

Amendment means any change, alteration, correction or modification of an existing tariff.

Assessorial charge means the amount that is added to the basic ocean freight rate.

BTA means the Commission's Bureau of Trade Analysis or its successor bureau.

Bulk cargo means cargo that is loaded and carried in bulk without mark or count in a loose unpackaged form, having homogeneous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and is, therefore, subject to the requirements of this part.

Co-loading means the combining of cargo by two or more NVOCCs for tendering to an ocean common carrier under the name of one or more of the NVOCCs.

Combination rate means a rate for a shipment moving under intermodal transportation which is computed by the addition of a TRI, and an inland rate applicable from/to inland points not covered by the TRI.

Commission means the Federal Maritime Commission.

Commodity description means a comprehensive description of a commodity listed in a tariff, including a brief definition of the commodity.

Commodity description number means a number that may be used to identify a commodity description.

Commodity index means an index of the commodity descriptions contained in a tariff.

Commodity rate means a rate for shipping to or from specific locations a commodity or commodities specifically named or described in the tariff in which the rate or rates are published.

Common carrier means a person holding itself out to the general public to provide transportation by water of cargo between the United States and a foreign country for compensation that:

(1) Assumes responsibility for the transportation from port or point of receipt to the port or point of destination; and

(2) Utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country, except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel tanker or by a vessel when primarily engaged in the carriage of perishable agricultural commodities:

(i) If the common carrier and the owner of those commodities are wholly-owned, directly or indirectly, by a person primarily engaged in the marketing and distribution of those commodities and

(ii) Only with respect to the carriage of those commodities.

Conference means an agreement between or among two or more ocean common carriers which provides for the fixing of and adherence to uniform tariff rates, charges, practices and conditions of service relating to the receipt, carriage, handling and/or delivery of passengers or cargo for all members, but the term does not include joint service, consortium, pooling, sailing, or transshipment agreements.

Consignee means the recipient of cargo from a shipper; the person to